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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES – GENERAL**

Case No. SACV 12-1910-JST (RNBx)  
Title: Agranat IP Licensing, LLC v. Hewlett-Packard Co.

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Date: August 21, 2013

Present: The Honorable JOSEPHINE STATON TUCKER, U.S. DISTRICT JUDGE

Terry Guerrero  
Deputy Clerk

N/A  
Court Reporter

Attorneys Present for Plaintiff:

Not Present

Attorneys Present for Defendant:

Not Present

**Proceedings: (In Chambers) Order Denying Ex Parte Application (Doc. 38)**

On August 19, 2013 Plaintiff Agranat IP Licensing LLC filed an ex parte application for an order striking an expert declaration served by Defendant Hewlett-Packard Company. (App., Doc. 38.) Defendant filed an opposition on August 20, 2013. (Opp'n, Doc. 39.)

Plaintiff argues that the declaration was untimely. Plaintiff appears to suggest that the declaration should have been submitted concurrently with the Joint Claim Construction Statement, relying on the Court's Scheduling Order, (Doc. 25), and Northern District of California Patent Local Rule 4-3(e). (See App. at 1.) However, while the Court's Scheduling Order sets a date for the Joint Claim Construction Statement and a period for completion of claim construction discovery, it does not set a date for serving expert declarations for claim construction. Nor has the Court formally adopted Northern District of California Patent Local Rule 4-3(e) in this case. Even if the Court had adopted the Rule, the Court is not persuaded that it would apply necessarily, as Defendant has indicated that it will not call any witnesses, including experts, at the claim construction hearing. (Opp'n at 9.)

Plaintiff also argues that the declaration discloses “[n]ew [o]pinions and [n]ew [e]vidence for the [f]irst [t]ime.” (App. at 3.) However, it appears that the “new” evidence is limited to one dictionary definition. (Opp'n at 12.) Any prejudice associated with this “new” evidence does not warrant striking the entire declaration, particularly as Plaintiff has the opportunity to depose Defendant's expert.

Accordingly, Plaintiff's ex parte application is DENIED. The parties are encouraged to work in good faith to schedule the deposition of Defendant's expert before the close of claim construction discovery.

Initials of Preparer: tg